

**THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

<b>OLIVER C. LOADHOLT,</b>	:	
	:	
<b>Petitioner,</b>	:	
	:	
<b>v.</b>	:	<b>Civil Action</b>
	:	<b>No. 5:08-cv-147 (CAR)</b>
<b>FRED BURNETTE, Warden,</b>	:	
	:	
<b>Respondent,</b>	:	
	:	
	:	

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***ORDER ON THE ORDER AND RECOMMENDATION OF  
THE UNITED STATES MAGISTRATE JUDGE***

Before the Court are two Recommendations from the United States Magistrate Judge. In the first Order and Recommendation [Doc. 23], it is recommended that Respondent's Motion to Dismiss Petitioner's petition for writ of habeas corpus be denied. In the second Recommendation [Doc. 24], it is recommended that Petitioner's Motion for Summary Judgment be denied. Upon review of the Recommendation, of Petitioner's objections to the Recommendation, and the entire record of the case, the Court agrees with the findings of the Magistrate Judge. There remain questions of fact with regard to Petitioner's exhaustion of state remedies that prohibit dismissal at the present stage of the case and Petitioner has not presented an adequate evidentiary basis to merit summary judgment. The Magistrate Judge has scheduled a hearing to inquire

further into Petitioner's exhaustion of state remedies and the status of his case in the state courts. Accordingly, the Recommendations are **HEREBY ADOPTED AND MADE THE ORDER OF THE COURT**. Respondent's Motion to Dismiss [Doc. 15] and Petitioner's Motion for Summary Judgment [Doc. 17] are both **DENIED**.

**SO ORDERED**, this 25<sup>th</sup> day of March, 2009.

S/ C. Ashley Royal  
C. ASHLEY ROYAL  
UNITED STATES DISTRICT JUDGE

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